June 19, 2017 1–4

	D4			Da 1
1	Page 1 IN THE UNITED STATES DISTRICT COURT	1	TABLE OF CONTENTS	Page 3
	IN THE EASTERN DISTRICT OF MICHIGAN	2	Witness	Page
2	SOUTHERN DIVISION	3	MICHELE FOLLMAN	
3	CHAD McFARLIN, individually	4	EVINTINATION DU MO ELLIO	4
	and on behalf of all	5 6	EXAMINATION BY MS. ELLIS:	4
4		7	EXHIBITS	
5	similarly situated persons,	8	Exhibit	Page
6	Plaintiff,	9	DEPOSITION EXHIBIT NO. 6	4
7	-v- No. 2:16-cv-12536	10 11	Employee Handbook DEPOSITION EXHIBIT NO. 7	4
8	Hon. Gershwin A. Drain	12	Minimum Wage Notice to Tipped Employees	4
9	THE WORD ENTERPRISES, LLC,	13	DEPOSITION EXHIBIT NO. 11	4
LO	et al.,	14	Conditional Employee or	
1	Defendants.	1.5	Food Employee Reporting Agreement	
L2	/	15	DEPOSITION EXHIBIT NO. 12	4
13	PAGE 1 TO 80	16	BHOSTION BANIBII NO. 12	•
14			Summary Report for Andrew Wilson	
15	The deposition of MICHELE FOLLMAN,	17		
16	Taken at 221 North Main Street, Suite 300,	1.0	DEPOSITION EXHIBIT NO. 13	4
		18	Daily Delivery Orders	
17	Ann Arbor, Michigan,	19	Daily Delivery Orders	
18	Commencing at 1:20 p.m.,		DEPOSITION EXHIBIT NO. 14	58
L9	Monday, June 19, 2017,	20		
20	Before Cheryl McDowell, CSR-2662, RPR.	21	The Word Enterprises, LLC Employee List -	- Condense
21		21	DEPOSITION EXHIBIT NO. 15	67
22		22	BELOGITION EMILET NO. 15	0,
23			State of Michigan New Hire Reporting Form	ı
24		23		
25		24 25	(Exhibits attached to transcrip	ot.)
		23		
1	Page 2  APPEARANCES:	1	Ann Arbor, Michigan	Page -
2	MS. TIFFANY R. ELLIS - P81456	2	Monday, June 19, 2017	
3	Blanchard & Walker PLLC		•	
4	221 North Main Street, Suite 300	3	About 1:20 p.m.	
		4	(Deposition Exhibits Nos. 6, 7, 11, 12,	
5	Ann Arbor, Michigan 48104	5	and 13 premarked and attached.)	
6	(734) 619-0970	6	MICHELE FOLLMAN,	
7	tiffanyrellis@gmail.com	7	having first been duly sworn, was examined	and testifie
8	Appearing on behalf of the Plaintiff.	8	on her oath as follows:	
9		9	EXAMINATION BY MS. ELLIS:	
10	MR. JEFFREY S. THEUER - P44161	10	Q. Could you please state your name for the r	ecord?
11	Loomis Ewert Parsley Davis & Gotting PC		A. Michele Follman.	ccoru:
12	104 77-01 711-00 91-001 9 11-0 700	11		
	124 West Allegan Street, Suite 700	4 ^		
13			Q. What is your address?	
	Lansing, Michigan 48933		A. 3777 Bath Road, Perry, Michigan, 48872.	
14	Lansing, Michigan 48933 (517) 482-2400	13	•	
14 15	Lansing, Michigan 48933 (517) 482-2400 jstheuer@loomislaw.com	13	A. 3777 Bath Road, Perry, Michigan, 48872.	
14 15 16	Lansing, Michigan 48933 (517) 482-2400	13 14	<ul><li>A. 3777 Bath Road, Perry, Michigan, 48872.</li><li>Q. What's your home telephone number?</li></ul>	
14 15 16	Lansing, Michigan 48933 (517) 482-2400 jstheuer@loomislaw.com Appearing on behalf of the Defendants.	13 14 15 16	<ul><li>A. 3777 Bath Road, Perry, Michigan, 48872.</li><li>Q. What's your home telephone number?</li><li>A. (989) 225-2408.</li><li>Q. Your work address?</li></ul>	18872
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13 14 15 16 17 18 19 20 21 22 23 24	Lansing, Michigan 48933 (517) 482-2400 jstheuer@loomislaw.com Appearing on behalf of the Defendants.	13 14 15 16 17 18 19 20 21 22 23	<ul> <li>A. 3777 Bath Road, Perry, Michigan, 48872.</li> <li>Q. What's your home telephone number?</li> <li>A. (989) 225-2408.</li> <li>Q. Your work address?</li> <li>A. 3058 West Britton Road, Perry, Michigan, 4</li> <li>Q. Is that a Hungry Howie's location?</li> <li>A. Yes.</li> <li>Q. Is that the Perry, the Hungry Howie's location by The Word Enterprises-Perry?</li> </ul>	



1

#### MICHELE FOLLMAN McFARLIN -v- WORD ENTERPRISES

June 19, 2017 9 - 12

Page 12

		Page 9
1	Q.	Were you an assistant manager that whole time?

- 2 A. No.
- 3 Q. You became general manager during that year and a
- 5 A. Correct.
- 6 Q. What did you do after you left the St. Johns location?
- 7 A. I moved to the Perry location.
- 8 Q. What did you do there?
- 9 A. I was an assistant manager.
- 10 Q. How long were you there?
- 11 A. Thirteen years, twelve years. I've been there since.
- Q. So from 2006 until now?
- 13 A. Uh-huh.
- 14 Q. Yes?
- A. Yes. Sorry.
- 16 Q. Okay. When did you first meet Mr. Dittrich?
- 17 A. 2004.
- Q. Was that in your role as an assistant manager at the 18
- 19 Hungry Howie's location?
- 20 A. Yes.
- 21 Q. And when did you start your correct position?
- 22 A. 2011.

1 A. Yes.

- Q. And how did that happen?
- 24 A. There was an opening available for an area director.
- 25 Q. Had there been an area director prior to that?

- Page 11 everyone is in uniform, product is good, service is
- 2 good.
- 3 Q. Anything else?
- 4 A. Oversee hiring and firing with my managers.
- 5 Q. Is that all?
- 6 A. I overlook their paperwork, weekly paperwork, payroll.
- 7 Q. Anything else?
- 8 A. No.
- 9 Q. Do you have an office?
- 10 A. No.
- 11 Q. Where do you work?
- 12 A. I travel.
- 13 Q. Between the stores?
- 14 A. Yes.
- 15 Q. Do you spend a certain amount of your time at one
- 16 store versus another?
- 17 A. It varies.
- 18 Q. On what?
- 19 A. On what the stores need at the time, if they need
- 20 extra help inside or I need to have a meeting with the
- 21 managers. It just depends.
- 22 Q. Are you ever in more than one store in a day?
- 23
- 24 Q. Do you report to anybody else besides Mr. Dittrich?
- 25 A. No.

Page 10

- 1 Q. Who reports to you, if anybody?
  - 2 A. The general managers of the stores and the employees.
  - 3 Q. What is your goal with respect to payroll practices?
  - 4 A. I will receive the payroll on a biweekly basis from
  - 5 the managers, double-check it against the schedules
  - 6 that were posted and make sure all the hours match up
  - and then forward it on to our accountant.
  - 8 Q. What do you do if the hours don't match?
  - 9 A. I would talk to my managers and find out if there was
  - 10 a reason why they do not match.
  - 11 Q. And what if there's none?
  - A. I've never run into that situation. There's always
  - 13 been a reason if they don't match why.
  - Q. If they do match, what happens then?
  - 15 A. I forward it on. It doesn't change anything.
  - 16 Q. I'm sorry. If there is a reason why they don't match,
  - 17 what happens then?
  - 18 A. It's usually a reason of an employee had to switch a
  - 19 schedule around and it didn't get changed on the
  - 20
  - 21 Q. So they would be paid for the time that they worked,
  - 22 not scheduled?
  - 23 A. Absolutely.
  - 24 Q. What is your day-to-day responsibility -- well,
  - anything else with relation to payroll? 25

6 Q. What do you do or what is your current title? 7 A. Area director.

3 A. I was there.

4 Q. Someone told you?

8 Q. And what do you do as area director?

2 Q. How did you learn of the opening?

9 A. Oversee Perry, St. Johns, Haslett, and Durand, daily

5 A. Yeah. The previous director was no longer with us.

- operations.
- 11 Q. You said the Perry, St. Johns, Haslett, and Durand
- 12 Hungry Howie's locations?
- 13 A. Correct.
- 14 Q. Are those the Hungry Howie's locations owned by The
- 15 Word Enterprises collectively?
- 16 A. Each company, each store has its own company.
- 17 Q. Okay. But each one would be owned by a Word
- Enterprise?
- 19 A. Yes, except Durand. That's owned by Dittrich
- 20 Investments.
- 21 Q. And these are the companies owned by Kevin Dittrich
- that we discussed during his deposition earlier?
- 23 A. Yes.
- 24 Q. What are your day-to-day duties?
- 25 A. Stop in, make sure the stores are running correctly,



June 19, 2017 25–28

McFARLIN -v- WORD ENTERPRISES	25–28
Page 25	Page 27
1 Q. What about the Haslett location, how many drivers	1 assigned deliveries?
2 would you say are on average employed there?	2 A. Yes.
3 A. Per day or just employed altogether?	3 Q. How does that happen?
4 Q. Altogether first.	4 A. There is a delivery dispatch screen. The deliveries
5 A. Five or six.	5 show up on one side, the drivers available are on the
6 Q. Does it change per day?	6 other side.
7 A. Yes.	7 They will pick their deliveries starting
8 Q. Based on what?	8 with the top one, and then if there's any that go with
9 A. Sales.	9 it in that time frame, they click them to dispatch
10 Q. Some days are busier than others?	into their name, and the computer says they have taken
11 A. Yes.	11 those deliveries.
12 Q. Fridays and Saturdays are busier?	12 Q. So let's back up for a second. When a driver comes
13 A. Yes.	13 into work
14 Q. Other days, which other days might be busy?	14 A. Uh-huh.
15 A. Thursdays and Sundays.	15 Q. Yes. He or she checks in to the computer, is that
16 Q. So Thursday through Sunday are busier than Monday	16 right?
17 through Wednesday?	17 A. Yes. They clock in.
18 A. Yes.	18 Q. They clock in.
19 Q. You have more drivers on staff then?	19 Is that using the Revention System?
20 A. Yes.	20 A. Yes.
21 Q. What about in the Perry location, how many drivers	21 Q. What does that person do then, wait for a delivery?
22 would you have altogether there on average?	22 A. Yes.
23 A. Eight to nine.	23 Q. Does that person work as a cook?
Q. Would it be would the busyness of the days be the	24 A. No.
25 same for the Perry location as the Haslett location?	25 Q. They just sit and wait?
Page 26 1 A. Yes.	Page 28
<ul><li>1 A. Yes.</li><li>2 Q. What about the St. Johns location, how many delivery</li></ul>	2 Q. What do they do?
3 drivers would you have had on average there?	
4 A. Four.	<ul><li>3 A. They will do dough, cleaning, any prep that we have.</li><li>4 Q. And they're called an insider when they're doing those</li></ul>
	5 things?
	6 A. Yes.
	<ul><li>Q. When they're an insider, are they paid at a different</li><li>rate than they are as an outsider?</li></ul>
<ul><li>8 Q. More people deliver or more people order pizzas from</li><li>9 that location?</li></ul>	9 A. Yes.
10 A. Yes.	10 Q. How does the computer do they designate on the
11 Q. Would it have anything to do with the size of the	11 computer what they're doing?
12 delivery area?	12 A. The computer calculates it as a driver-in, driver-out
13 A. Yes.	13 calculation. When they dispatch a delivery, it
14 Q. Because Perry has a bigger delivery area than the	14 automatically puts them into the driver-out at the
15 other two stores?	15 lower rate, and as soon as they come back in and
16 A. Yes.	16 return from that delivery, it puts them back into the
17 Q. Why would that matter?	driver-in rate.
18 A. So we can get our deliveries out quicker, we would	18 Q. So the driver-in rate is the minimum wage, right?
19 have more on staff with the bigger delivery area.	19 A. Yes.
20 Q. It takes longer in Perry to delivery a pizza than it	20 Q. It's always the minimum wage?
21 would in Haslett or St. Johns, in other words?	21 A. Yes.
22 A. Depending on the delivery.	22 Q. In all stores?
22 7. Doponaing on the delivery.	OO A Orwest

23 A. Correct.



25 Q. Are you familiar with the process by which drivers are

23 Q. But it could?

24 Q. And let's just for the sake of the record be clear.

When I'm asking you these questions about driver

June 19, 2017 29–32

Page 29	Page 31
1 practices, are these the same practices that are	1 store.
2 followed at the Haslett, the Perry, and the St. Johns	2 Q. So it would suggest that that driver be the one to
3 stores, all three?	3 take it?
4 A. Yes.	4 A. Yes.
5 Q. And if they're at any time different among the three,	5 Q. A different driver could potentially dispatch the
6 you'll tell me, right?	6 order?
7 A. Yes.	7 A. Yes.
8 Q. So the driver clocks in and is classified as an	8 Q. And then when they hit dispatch, does that mean that
9 insider?	9 they will start accumulating time at a different rate
10 A. Yes.	of pay?
11 Q. And then the driver will look at the screen when a	(11 A. Yes.)
delivery comes in, correct?	12 Q. What is that rate of pay, do you know?
13 A. Yes.	13 A. Five dollars per hour.
14 Q. And how do they know that a delivery has come in?	14 Q. Do you know how long it's been that rate?
15 A. They pop up on the dispatch screen.	15 A. Since September 1st, 2014.
16 Q. Is there a separate computer just for drivers?	16 Q. And what was it before that?
17 A. Yes.	17 A. Minimum wage straight time. They were not they did
18 Q. And they're responsible for monitoring it when they're	not have two different pay rates before that.
in that location?	19 Q. They were paid at minimum wage prior to September 1,
20 A. Yes.	20 2014?
21 Q. What if there's more than one driver on at the same	21 A. Yes.
time. How do they determine who takes the delivery	22 Q. And on September 1, 2014, they began splitting their
23 out?	23 time?
24 A. The computer puts the first or the last whoever is	24 A. Yes.
at the top of the screen on the list of drivers is the	25 Q. Were you involved in that decision?
Page 30	Page 32
1 next one to take the next delivery, and then once they	1 A. Yes.
2 take that delivery, they move to the bottom of the	2 Q. And why was that change made?
3 screen and then the next person moves to the top, and	
	3 A. Minimum wage was going up. To help with labor costs,
4 then it would be their turn to take the next delivery.	<ul><li>3 A. Minimum wage was going up. To help with labor costs,</li><li>4 we made the decision to do what most other businesses</li></ul>
4 then it would be their turn to take the next delivery.	4 we made the decision to do what most other businesses
<ul><li>4 then it would be their turn to take the next delivery.</li><li>5 Q. So there's a queue of drivers?</li></ul>	<ul> <li>we made the decision to do what most other businesses</li> <li>in this category were doing and do the split wage.</li> </ul>
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25 A. Yes, yes.



name, hit dispatch which means they're leaving the

June 19, 2017 33 - 36

		Page 33
1	Q.	And for the Haslett location, was that also just a

2 seventy-five cent for delivery payment?

3 A. Yes.

4 Q. Are those payments all still seventy-five cents today?

5 A. Yes, except Perry.

6 Q. Except Perry.

And the Laingsburg fee is now higher?

8 A. Yes.

7

9 Q. It was one seventy-five up until when?

10 A. I believe August of last year.

11 Q. And then it went up?

12 A. To two twenty-five.

13 Q. So it's your understanding that when drivers are on

14 out pay we'll call it at the rate of five dollars an

15 hour that they are brought up to the minimum wage rate

16 by two things, the run reimbursement, the vehicle

17 reimbursement which is the seventy-five cents or the

18 dollar seventy-five we discussed?

19 A. Yes.

20 MR. THEUER: Object to the characterization

21 of rate.

22 Go ahead.

23 BY MS. ELLIS:

24 Q. Is that a yes?

25 A. Yes.

Page 35 guarantee them a rate of above the minimum wage?

2 A. Nothing guaranteed.

3 Q. Are any of your delivery drivers paid any different

than that system that we just discussed?

5 A. No.

6 Q. And that's any of the St. Johns, Perry, or Haslett

7 locations?

8 A. Yes.

9 Q. They're all paid the same?

11 Q. They're all paid the same rate, the minimum wage, when

12 they're inside the store?

13 A. Yes.

14 Q. And the five dollars plus those additional funds that

15 we talked about?

16 A. Yes.

17 Q. And drivers are paid every two weeks, is that right?

19 Q. Are drivers paid anything on a daily basis?

20 Α.

21 Q. What are they paid on a daily basis?

A. Their compensation.

23 Q. The driver's compensation?

A. Driver compensation and tips.

Q. Who pays them at the end of each day?

Page 34

1 Q. And what do you call that, what do you call that in

2 the stores?

3 A. Driver compensation.

4 Q. Driver compensation. So that's what we'll call it for

5 the sake of today's deposition.

6 On top of the five dollars, they receive

driver's compensation per trip, right?

8 A. Per delivery.

9 Q. Per delivery.

10 And then they also receive a credit for

11 their tips, is that right?

12 A. They receive tips.

13 Q. If they didn't receive enough tips to get them to the

14 minimum wage, what would happen then?

15 A. Then we would make up the difference.

16 Q. And if they received more than the minimum wage?

17 A. Then they just received more than minimum wage.

18 Q. They would keep it?

19 A. Yes.

20 Q. Are you aware of any delivery drivers that have been

on a tip credit wage that guarantees them to make more

than minimum wage?

23 A. No.

24 Q. Are you aware if at any time since 2013 any of your

drivers were paid using a tip credit system that would

Page 36 1 A. The store pays the driver compensation, the customers

2 pay tips.

3 Q. So when a driver comes back in to a store, what

happens when they come back in?

5 A. They mark themselves as returned on the computer which

6 takes them from the driver-out wage to the driver-in

8 Q. Do they record the tips that they've received?

9 A. We do at the end of the night.

10 Q. So when a driver comes back from a delivery, he or she

11 does not put the tips that he received from that

12 delivery into the system?

13 A. No, unless it's a credit card tip. Those go on

14 automatic, automatically.

15 Q. At the end of the night would a driver count up the

16 amount of tips that they received total?

17 A. Yes.

18 Q. And then they would put it into the system?

19 A. Yes.

20 Q. Would a driver have to do anything else when he or she

21 came back to the store besides marking that they were

22

23 A. Not dealing with deliveries. Then they would start

24 doing any of the inside duties they had.

25 Q. They would go back to the other responsibilities?



June 19, 2017 77–80

1		Page 77 locations that we have not discussed here today?	1	Page 79 MR. THEUER: I acknowledge the request.
		No.	2	MS. ELLIS: No further questions at this
3		Are you aware of any freestanding dress code that we	3	time.
4		have not discussed here today?	4	MR. THEUER: I've got no questions, either.
		No.	5	WIN. THEOLIN. TWO got no questions, entirer.
6		Are you aware of any handbook besides that Exhibit 6		(Danasitian concluded at 2:59 n m.)
7		that we discussed earlier today?	6	(Deposition concluded at 2:58 p.m.)
		No.	7	
			8	
9	Q.	Are you aware of any additional driver's rules and	9	
10		policies besides that included in the employee	10	
11		handbook that we have not discussed today?	11	
		No.	12	
13	Q.	Do you know why you would have an employee sign this	13	
14		if those documents don't exist?	14	
15		MR. THEUER: I'll object to the form of the	15	
16		question.	16	
17		But go ahead and answer if you can.	17	
18		THE WITNESS: I don't know. All that	18	
19		information is included in the employee handbook. So	19	
20		I'm not sure why it has it listed as four separate	20	
21		entities.	21	
22	BY	'MS. ELLIS:	22	
23	Q.	On TWE30, this is a Receipt of Employee Handbook and	23	
24		Acknowledgment of Employment Terms?	24	
25	A.	Uh-huh.	25	
		Page 78		Page 80
1	Q.	Yes?	1	STATE OF MICHIGAN )
2	A.	Yes. Sorry.		)SS.
3	Q.	Employee Orientation Checklist.	3	COUNTY OF LIVINGSTON )
4		Are employees given an orientation when	4	CERTIFICATE OF NOTARY PUBLIC  I certify that this transcript
5		they are hired?	5	is a complete, true, and correct record of the
6	A.	Yes.	6	testimony of the deponent to the best of my ability
7	Q.	Who does that?	7	taken on Monday, June 19, 2017.
8	A.	Myself or a manager.	8	I also certify that prior to
9	Q.	Are these topics one through nine topics that are	9	taking this deposition, the witness was duly sworn by
10		covered verbally?	10	me to tell the truth.
11	Α.	Yes.	11	I also certify that I am not a
12	Q.	. Are there any written materials that are part of items	13	relative or employee of a party, or a relative or employee of an attorney for a party, have a contract
13		provided to these employees?	14	with a party, or am financially interested in the
		The handbook.	15	action.
15		. Are there any written materials that are provided to	16	
16		employees on these topics?	17	
1		i vita a la caracteria del constitución de la const	18	_
17		No.		Tongs.
	A.		19	11 1 m 1 .11
18	A. Q.	. Is there any additional training that's given to		Cherry Mr Dowell
18 19	A. Q.	. Is there any additional training that's given to drivers besides that which is listed on this Employee	19 20	Cherry Me Dwell
18 19 20	A. Q.	. Is there any additional training that's given to drivers besides that which is listed on this Employee Orientation Checklist?	19	U
18 19 20 21	A. Q.	Is there any additional training that's given to drivers besides that which is listed on this Employee Orientation Checklist?	19 20	Cheryl McDowell, CSR-2662, RPR Notary Public, Livingston County
18 19 20 21 22	A. Q.	Is there any additional training that's given to drivers besides that which is listed on this Employee Orientation Checklist?  No.  MS. ELLIS: Okay. I'll just reserve the	19 20 21	Cheryl McDowell, CSR-2662, RPR
18 19 20 21 22 23	A. Q.	Is there any additional training that's given to drivers besides that which is listed on this Employee Orientation Checklist?  No.  MS. ELLIS: Okay. I'll just reserve the right to continue the deposition upon production of	19 20 21	Cheryl McDowell, CSR-2662, RPR Notary Public, Livingston County
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